# Neg- Kant Aff- TOC – Nirmal

# 1NC

## Util NC

### FW- Short

#### 1. Moral realism is true- pain and pleasure are only intrinsic values

**Gray 09** [Gray, James W. "An Argument for Moral Realism." Ethical Realism. N.p., 07 Oct. 2009. Web. 04 Sept. 2015. <https://ethicalrealism.wordpress.com/2009/10/07/an-argument-for-moral-realism/>. MA in philosophy from San Jose State University (2008)]

**If we have evidence** that **anything** in particular **has intrinsic value**, then we also have evidence that **moral realism is true**. Our experiences of pleasure and pain are probably the most powerful evidence of intrinsic value because such experiences are tied to our belief that they have intrinsic value. My argument that pain has intrinsic disvalue is basically the following: We experience that pain is bad. We experience that pain is important. The disvalue of pain is irreducible. The disvalue of pain is real. If pain is bad in the sense of being important, irreducible, and real, then pain has intrinsic disvalue. Therefore, pain has intrinsic disvalue. I am not certain that the premises are true, but I currently find good reasons for accepting them. Therefore, we have reason for accepting the conclusion. The conclusion could be read saying, “We have reason to believe that pain has intrinsic disvalue.” If we accept that **pain has intrinsic disvalue**, then we will simultaneously accept moral realism.1 In order to examine the plausibility of my argument, I will examine each of the premises: We experience that pain is bad. We know pain is bad **because of our experience** of it. If someone described their pain as extremely wonderful, we would doubt they are feeling pain. Either the person is lying or doesn’t know what the word “pain” means. When a child decides not to touch fire because it causes pain, we understand the justification. **It would be strange to ask** the child, “So what? **What’s wrong with pain**?” We experience that pain is important. If pain is important in the relevant sense, then it can provide us reason to do something without merely helping us fulfill our desires. In other words, we must accept the following: The badness of pain isn’t just an instrumental value. The badness of **pain is a final end**. Pain’s badness isn’t an instrumental value – Pain’s disvalue is not an instrumental disvalue because pain can be quite useful to us. **Pain** can tell us when we are unhealthy or injured. We evolved pain because **i**t’**s** **essential** **to** our **survival**. Pain’s bad for a different kind of reason. Pain’s disvalue is found in our negative experience, and this is why pain is a candidate for having an intrinsic disvalue. Whenever someone claims that something has intrinsic value, we need to make sure that it’s not just good because it’s instrumentally valuable. If it’s merely useful at bringing about something else, then it’s not good in and of itself (as intrinsic values are). Pain is perhaps the perfect example of something that is useful but bad. If usefulness was the only kind of value, then pain would actually be good because it helps us in many ways. Pain’s badness isn’t just our dislike of pain – We dislike **pain** because it **feels bad**.2 If pain didn’t feel bad, then we wouldn’t have such a strong desire to avoid intense pain. Pain means “feels bad” and it **is manifested in various experiences**, such as touching fire. **We have to know the meaning of “bad”** in order to understand pain at all. **We attain an understanding of “bad” just by feeling pain**. If pain was only bad because we dislike it, then we couldn’t say that “pain really matters.” Instead, the badness of pain would just be a matter of taste. However, we don’t just say pain is bad because we dislike it. We also say pain is bad because of how it feels. Avoiding **pain is a final end** – A final end is a goal people recognize as being **worthy of being sought after for its own sake**. Money is not a final end **because** it is only valuable when used to do something else. Pleasure and pain-avoidance are final ends because they are taken t be worthy of being avoided for their own sake. We know that avoiding pain makes sense even when **it doesn’t lead to anything else** of value, so avoiding pain is a final end.3 If I want to take an aspirin, someone could ask, “Why did you do that?” I could answer, “I have a headache.” This should be the end of the story. We understand that avoiding pain makes sense. It would be absurd for someone to continue to question me and say, “What difference does having a headache make? That’s not a good reason to take an aspirin!”4 Both realists and anti-realists can agree that pain is bad, and they can both agree that pain is a final end. Our desire to avoid pain is non-instrumental and such a desire is experienced as justified. (However, the ant-realist might argue that it is only taken to be justified because of human psychology.) If pain is a final end, then we understand (a) that pain is important and (b) it makes sense to say that we ought to avoid pain. **Pain’s disvalue is irreducible**. **If the badness of pain was reducible to nonmoral properties, then we should be able to describe what** “bad” means **through a non-moral description**. **However**, **we** currently **have no** way of understanding pain’s badness as being something else. We can’t describe pain’s badness in non-moral terms. If someone needs to know what ” bad” means, they need to experience something bad. To say that some moral states are irreducible is just like saying that some mental states are irreducible. Pain itself can’t be described through a non-mental description. If we told people the mental states involved with pain, they would still not know what pain is because they need to know what it feels like. Someone could argue that **“bad” means the same thing as** something like **“pain,”** and then we would find out that the badness of pain could be reduced to something else. However, pain and the badness of pain are conceptually separable. For example, I could find out that something else is bad other than pain. They could then reply that “bad” means the same thing as a disjunction of various other bad things, such as “pain or malicious intent.” But people who disagree about what constitutes what is “bad” aren’t just arguing about the meaning of the word “bad.” They are arguing about what has the property “bad.”5 Additionally, the word “bad” would no longer have any importance. If “bad” just means “pain or malicious intent,” then why care about it? Why ought I refrain from causing pain or having a malicious intent? It could be that we can find out that “bad” and “pain” are identical, but then “bad” might not be entirely reducible to “pain” (or a disjunction of bad things). We might still think that there are two legitimate descriptions at work. The “pain” description and the “bad” description. (Some people think water is H2O through an identity relation similar to this.) This sort of irreducible identity relation require us to deny that pain is “important.” (If the identity theory did require us to deny that pain is “important,” then we would have a good reason to reject such an identity theory.) I have given reason to think the word “bad” is irreducible, but I haven’t proven it. If someone could prove that pain isn’t important, and we can reduce pain to something else, then I will be proven wrong. I just don’t see any reason to agree with that position at this time. I discuss the badness of pain as irreducible in more detail in my essays “Objection to Moral Realism Part 1: Is/Ought Gap” and “Objections to Moral Realism Part 3: Argument from Queerness.” The badness of pain is real. **If the badness of pain is real**, **then everyone’s pain is bad**. Pain isn’t bad just for me, but not for you. It states that **we don’t** all merely **share a subjective preference** in avoiding pain, **but** that pain’s badness is something worthy of being avoided and helping others avoid it. Why does it seem reasonable to believe pain’s badness to be real? There are at least four reasons. One, I experience that **my pain hurts and I know that other people do as well**. Two, it’s not just people’s subjective preferences in question. People hate pain because of how it feels. Three, people’s pain exists (and if pain exists, then the badness of the pain exists). Four, I see no reason to deny that the badness of other people’s pain exists. I will discuss this final consideration in more detail when I discuss anti-realist objections. We have no good reason to deny that pain is bad. We experience that pain is bad for ourselves, and other people experience that pain is bad for themselves as well. **Even though pain is subjective,** there is nothing delusional about our belief that pain is bad. **It’s not just a** personal **like or a dislike**. We don’t just agree to treat other people’s pain as important as part of a social contract. The belief that the badness of pain is real and “pain is bad no matter who experiences it” will be rejected by anti-realists. If I gave food to the hungry, it would be absurd to question why I did it. Imagine someone who disagrees with my action and says, “Other people’s pain is irrelevant. You should only try to avoid pain for yourself, so feeding the hungry is stupid.” This person’s position is counterintuitive to the point of absurdity. We have all accepted that other people’s pain matters. It makes sense to feed the hungry, it makes sense to give to charity, and it makes sense to give someone an aspirin who has a headache. We don’t have to benefit from helping other people. To deny that “pain is bad no matter who experiences it” isn’t a position that many people can find acceptable. (I suppose some sociopaths might find it acceptable.) If pain is bad, important, irreducible, and real, then pain has intrinsic disvalue. I want to suggest this premise to be justified in virtue of the very meaning of intrinsic value. If pain is bad, important (worthy of being desired), irreducible, and real; then I think we have already established that pain has intrinsic disvalue by definition. We have established **moral facts** that could **give us what we ought to do**, such as, “We ought to avoid pain.” Such an ought judgment is not merely based on my personal belief or desire; it’s based on the fact that pain is important no matter who experiences it. Conclusion: Pain has intrinsic disvalue If my premises are true, then the conclusion follows. I have given reason for accepting the premises, so we have some reason for accepting the conclusion, and the conclusion entails the truth of moral realism. I will take all of my premises to be sufficiently justified, but I will consider why someone might decide that the badness of pain “isn’t real.” An anti-realist could attempt to deny that “pain is bad no matter who experiences it.” The strongest evidence that badness is real is the fact that denying it seems to require unjustified philosophical commitments. I will attempt to show that the alternatives are less justified in the next section.

#### Outweighs:

#### A. Maximization- All pleasure is intrinsically valuable for the same experiential reason-- side constraints deny intrinsic value and that outweighs because it's a question of logical consistency

#### B. Agency- Constitutive obligations are contingent unless they are inescapable- only pain and pleasure define humanity

#### 2. Moral uncertainty means we prevent extinction

**Bostrom 11** --¶ (2011) Nick Bostrom, Future of Humanity Institute, Oxford Martin School & Faculty of Philosophy

These reflections on moral uncertainty suggest an alternative, complementary way of looking at existential risk. Let me elaborate. Our present understanding of axiology might well be confused. We may not now know—at least not in concrete detail—what outcomes would count as a big win for humanity; we might not [or] even yet be able to imagine the best ends of our journey. If we are indeed profoundly uncertain about our ultimate aims, then we should recognize that there is a great option value in preserving**—**and ideally improving—our ability to recognize value and to steer the future accordingly. Ensuring that there will be a future version of humanity with great powers and a propensity to use them wisely is plausibly the best way available to us to increase the probability that the future will contain a lot of value. To do this, we must prevent any existential catastrophe

#### 3. No act-omission or intent-foresight distinction

#### A. The choice to omit constitutes an act in itself since when we intend an act we also must intend not to do anything else

#### B. Willing foreseen effects are necessary to actualize intent so we will the end as a whole.

#### C. Intent is unverifiable and reified by systems that claim to be good which makes ethics subjective.

#### The impact is that any NC harm turns the aff

#### 3. Sovereignty is a construct from the experiential and is fluid, authority exists as a short cut to informed utility calculus

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‘We are who we choose to be’ overstates our freedom in the matter but makes the point forcefully that **collective identity is a choice made by people, not a property of society** **which transcends their agency**. We choose from an array of possible identities, so to speak. (Clearly, this is to analyze identity formation in the abstract. No society exists where we could observe this process from the starting-point of a tabula rasa without an already-existing identity and the consequent pressures of socialization to adopt and to affirm it.) The question is how these diverse individual choices come to cohere in a clear or vague collective image, and how disputes about identity, with security implications, are settled. **If we reify** the notion of **societal identity**, in the manner of Waever et al., the answer is that it just happens. If sub-societal groups see things differently from the majority, Waever et al. offer no criteria by which to judge and resolve the dispute. **For them, [the idea] society has an identity by definition**. **People do not choose** it; they recognize it, they belong to it.32 **This is** sociologically untenable. It is **blind to the moral choices which go into** the melting-pot of **the process** of identity formation. To answer the question raised above: individual and group choices come to cohere in a societal identity—when they do—only by virtue of higher-level moral decisions about what counts and what does not in the image we want to have of ourselves. **Whether** it is **the state**, the Supreme Court or simply the most **powerful hidden interests** which **settle the matter is less important than that we recognize** the inescapable ethical judgment in the process of choosing the components of a collective identity. **These agencies are political instruments**, **made** necessary **by** the fact that social order requires a referee with **the mandate to speak for society**. In Buzan (1991), as noted, **the state** **was** not only **given** **the** political **mandate in relation to security**, **it was also ontologically identified** with the needs and rights of the people whose security was at stake. The moral judgment involved in Buzan’s account is hidden within the function of the state. In the new focus on societal identity, there is no referee and there are no criteria for legitimizing decisions about identity. In effect, **the construction of identity** and the resolution of identity disputes **are left to emerge**, incorrigible and beyond assessment, **from the mysterious workings of society**. The element of normative judgment in the negotiations which constitute the permanent process of identity formation is lost**. Collective identity is not ‘out there’, waiting to be discovered**. **What is ‘out there’ is identity discourse on the part of political leaders**, intellectuals and countless others, **who engage in the process of constructing**, negotiating and affirming a response to the demand—at times urgent, mostly absent—for a collective image. **Even in times of crisis**, this is never more than a provisional and fluid image of ourselves as we want to be, limited by the facts of history. The relevance of this argument to the concept of societal security should be clear.

#### Outweighs:

#### A. Actor specificity- different agents have different obligations, for example surgeons are allowed to cut people but a normal person is not

#### B. No util calc indicts- proves societies function this way in the status quo so indicts are empirically denied

#### 4. Frameworks must be theoretically legitimate- any standard is an interpretation of the word ought-

#### A. Ground- every impact functions under util whereas other ethics flow to one side exclusively, kills fairness since we both need arguments to win.

#### B. Topic lit- most articles are written through the lens of util because they’re crafted for policymakers and the general public who take consequences to be important, not philosophy majors. Key to fairness and education- the lit is where we do research and determines how we engage in the round.

#### 5. Reductionism, Temporal states change desires and make personal identity non continuous because we can’t experience the future

**Olson 10** [Eric T. (Professor of Philosophy at the University of Sheffield) “Personal Identity” Stanford Encyclopedia of Philosophy Aug 20, 2002; substantive revision Oct 28, 2010 <http://plato.stanford.edu/entries/identity-personal/#PsyApp>]

Whatever psychological continuity may amount to, a more serious worry for the Psychological Approach is that you could be psychologically continuous with two past or future people at once. **If your cerebrum**—the upper part of the brain largely responsible for mental features—**were transplanted, the recipient would be** psychologically continuous with **you** by anyone's lights (even if there would also be important psychological differences). The Psychological Approach implies that she would be you. If we destroyed one of your cerebral hemispheres, the resulting being would also be psychologically continuous with you. (Hemispherectomy—even the removal of the left hemisphere, which controls speech—is considered a drastic but acceptable treatment for otherwise-inoperable brain tumors: see Rigterink 1980.) What **if we** did both at once, **destroy**ing **one hemisphere and transplant**ing **the other**? Then too, **the one who got the transplant**ed hemisphere would be psychologically continuous with you, and according to the Psychological Approach **would be you.** But now **suppose** that **both hemispheres are transplanted, each into a different empty head.** (We needn't pretend, as some authors do, that the hemispheres are exactly alike.) **The two recipients**—call them Lefty and Righty—**will each be** psychologically continuous with **you.** The Psychological Approach as I have stated it implies that any future being who is psychologically continuous with you must be you. It follows that you are Lefty and also that you are Righty. **But that cannot be**: Lefty and Righty are two, and **one thing cannot be** numerically identical with **two things.** Suppose Lefty is hungry at a time when Righty isn't. If you are Lefty, you are hungry at that time. If you are Righty, you aren't. If you are Lefty and Righty, you are both hungry and not hungry at once: **a contradiction.**

#### This means consequentialism- moral theories can’t focus on individuals since there’s nothing that unifies them across time- only states of affairs have values

#### And, A priori reasoning fails

#### A. A priori statements devolve to a posteriori reasoning; the statement “a bachelor is an unmarried man” is only viewed as analytically true within the context of our empirical knowledge. We *choose* to define a bachelor as such, but we could change it to something else.

#### B. Even if statements from a priori reasoning can be justified, they have no way of being knowable to agents unless they are empirically verified through an agent’s sensations, so empirical knowledge is the *only* useful type

#### 6. Moral Substitutability is true but intrinsic goods lack explanatory power absent judgement through empirical goods

**Sinnott-Armstrong 92** [Sinnott- Armstrong, Walter. “An Argument For Consequentialism” Dartmouth College. Philosophical Perspectives, 6, Ethics, 1992.] NB

So defined. the class oi deontological moral theories is very large and diverse. This makes it hard to say anything in general about it. Nonetheless. I will argue that no deontological moral theory can explain why moral substitutability holds. My argument applies to all deontologicai theories because it depends only on what is common to them all. namely. the claim that some basic moral reasons are not consequential. Some deontological theories allow very many weighty moral reasons that are consequential. and these theories might be able to explain why moral substitutabliity holds for some of their moral reasons: the consequential ones. But even these theories cannot explain why moral substitutabllity holds ior all moral reasons. including the non-consequential reasons that make the theory deontological. The failure oi deontological moral theories to explain moral substitutability in the very cases that make them deontological is a reason to reject all deontological moral theories. I cannot discuss every deontological moral theory. so I will discuss only a iew paradigm examples and show why they cannot explain moral substitut- ability. Aiter this. i will argue that similar problems are bound to arise ior all other deontological theories by their very nature. The simplest deontological theory is the pluralistic intuitionism oi Prichard and Ross. Ross writes that. when someone promises to do something. ‘This we consider obligatory in its own nature. just because it is a fuliillment oi a promise. and not because oi its consequences."2 Such deontologists claim in eiiect that. if I promise to mow the grass. there is a moral reason for me to mow the grass. and this moral reason is constituted by the fact that mowing the grass fuliills my promise. This reason exists regardless oi the consequences of mowing the grass. even though it might be overridden by certain bad consequences. However. if this is why I have a moral reason to mow the grass. then. even ii I cannot mow the grass without starting my mower. and starting the mower would enable me to mow the grass. it still would not follow that l have any moral reason to start my mower. since I did not promise to start my mower. and starting my mower does not iuliill my promise. Thus. a moral theory cannot explain moral substitutability ii it claims that properties like this provide moral reasons. Oi course. this argument is too simple to be conclusive by itself. since de- ontologists will have many responses. The question is whether any response is adequate. i will argue that no response can meet the basic challenge. A deontologist might respond that his moral theory includes not only the principle that there is a moral reason to keep one's promises but also another principle that there is a moral reason to do whatever is a necessary enabler for what there is a moral reason to do. This other principle just is the principle of moral substitutability. so. of course. i agree that it is true. However. the question is why it is true. This new principle is very different from the substantive principles in a deontological theory. so it cries out for an explanation. ii a deontologist simply adds this new principle to the substantive principles in his theory. he has done nothing to explain why the new principle is true. It would be ad hoc to tack it on solely in order to yield moral reasons like the moral reason to start the mower. in order to explain or justify moral substitutability. a deontologist needs to show how this principle coheres in some deeper way with the substantive principles of the theory. That is what deontologists cannot do. A second response is that l misdescribed the property that provides the moral reason. Deontologists might admit that the reason to mow the lawn is not that this iullills a promise. but they can claim instead that the moral reason to mow the lawn is that this is a necessary enabler ior keeping a promise. They can then claim that there is a moral reason to start the mower. because starting the mower is also a necessary enabler ior keeping my promise. Again. I agree that these reasons exist. But the question is why. This deontoiogist needs to explain why the moral reason has to be that the act is a necessary enabler for fulfilling a promise instead of just that the act does iuliill a promise. Ii there is no moral reason to keep a promise. it is hard to understand why there is any moral reason to do what is a necessary enabler ior keeping a promise. Furthermore. deontoiogists claim that the crucial iact is not about consequences but directly about promises. My moral reason is supposed to arise irom what i said beiore my act and not irom consequences alter my act. However. what I said was “i promise to mow the grass'. I did not say. ‘l promise to do what is a necessary enabler for mowing the grass.’ Thus. i did not promise to do what is a necessary enabler ior keeping the promise. What I promised was only to keep the promise. Because of this. deontoiogists who base moral reasons directly on promises cannot explain why there is not only a moral reason to do what I promised to do (mow the grass) but also a moral reason to do what i did not promise to do (start the mower). Deontologists might try to defend the claim that moral reasons are based on promises by claiming that promise keeping is intrinsically good and there is a moral reason to do what is a necessary enabler oi what is intrinsically good. However. this response runs into two problems. First. on this theory. the reason to keep a promise is a reason to do what is itself intrinsically good. but the reason to start the mower is not a reason to do what is intrinsically good. Since these reasons are so different. they are derived in diiierent ways. This creates an incoherence or lack oi unity which is avoided in other theories. Second. this response conflicts with a basic theme in deontological theories. it my promise keeping is intrinsically good. your promise keeping is just as intrinsically good. But then. ii what gives me a moral reason to keep my promise is that l have a moral reason to do whatever is intrinsically good. I have just as much moral reason to do what is a necessary enabler for you to keep your promise. And. ii my breaking my promise is a necessary enabler for two other people to keep their promises. then my moral reason to break my promise is stronger than my moral reason to keep it (other things being equal). This undermines the basic deontological claim that my reasons derive in a special way irom my promises.n So this response explains moral sub- stitutability at the expense of giving up deontology. A iourth possible response is that any reason to mow the grass is also a reason to start my mower because starting my mower is part oi mowing the grass. However. starting my mower is not part oi mowing the grass. because i can start my mower without cutting any grass. I might start my mower hours in advance and never get around to cutting any grass. Suppose I start the mower then go inside and watch television. My wife comes in and asks. “Have you started to mow the Iawn?'. so 1 answer. “Yes. l've done part of it. I'll finish it later.’ This is not only misleading but false. Furthermore. mowing the grass can have other necessary conditions. such as buying a mower or leaving my chair. which are not parts of mowing the grass by any stretch of the imagination. Finally. deontologists might charge that my argument begs the question. it would beg the question to assume moral substitutability if this principle were inconsistent with deontological theories. However. my point is not that moral substitutability is inconsistent with deontology. it is not. Deontologlsts can consistently tack moral substitutability onto their theories. My point is only that deontologists cannot explain why moral substitutability holds. it would still beg the question to assert moral substitutability without argument. However. I did argue for moral substitutability. and my argument was independent of its implications for deontology. i even used examples of moral reasons that are typical of deontological theories. Deontologists still might complain that the failure of so many theories to explain moral substitutability casts new doubt on this principle. However. we normally should not reject a scientific observation just because our theory‘cannot explain it. Similarly. we normally should not reject an otherwise plausible moral judgment just because our favorite theory cannot explain why it is true. Otherwise. no inference to the best explanation could work. My argument simply extends this general explanatory burden to principles oi moral reasoning and shows that deontological theories cannot carry that burden. Even though this simple kind oi deontological theory cannot explain moral substitutability. more complex deontological theories might seem to do better. One candidate is Kant. who accepts something like substitutability when he writes. ‘Whoever wills the end. so far as reason has decisive influence on his action. wills also the indispensably necessary means to it that lie in his power.’I4 Despite this claim. however. Kant fails to explain moral substi- tutability. Kant says in eilect that there is a moral reason to do an act when the maxim of not doing that act cannot be willed as a universal law without contradiction. My moral reason to keep my promise to mow the grass is then supposed to be that not keeping promises cannot be willed universally without contradiction However. not starting my mower can be willed universally without contradiction i can even consistently and universally will not to start my mower when this is a necessary enabler for keeping a promise. The basic problem is that Kant repeatedly claims that his theory is purely a priori. but moral substitutability makes moral reasons depend on what is empirically possible. Kantians might try to avoid this problem by interpreting universal- izability in terms of a less pure kind oi possibility and ‘contradlction'. On one such interpretation. Kant claims it is contradictory to will universal promise breaking. because. if everyone always broke their promises. no promises would be trusted. so no promises could be made or. therefore. broken. There are several problems here. but the most relevant one is that people could still trust each other's promises. including their promises to mow a lawn. even if nobody ever starts his mower when this is a necessary enabler for keeping a promise. This might happen. for example. if it is common practice to keep mowers running for long periods. so those to whom promises are made assume that it is not necessary to start one's mower in order to mow the lawn. This shows that there is no contradiction oi this kind in a universal will not to start my mower when this is a necessary enabler for keeping a promise. Thus. this interpretation of Kant also fails to explain why there is a moral reason to start the mower. Some defenders oi Kant will insist that both of these interpretations fail to recognize that. for Kant. certain ends are required by reason. so rational people cannot universally will anything that conflicts with these ends. One problem here is to specify which and why particular ends have this special status it is also not clear how these rational ends would conflict with universally not starting mowers. Thus. Kant can do no better than other deontologists at explaining why there is a moral reason to start my mower or why moral substitutability holds.

#### Only necessary enabler consequentialism can explain moral substitutability

**Sinnott-Armstrong 92** [Sinnott- Armstrong, Walter. “An Argument For Consequentialism” Dartmouth College. Philosophical Perspectives, 6, Ethics, 1992.] NB

NEC can provade a natural explanation oi moral substitutability ior both kinds oi moral reasons. I have a prevention moral reason to give someone iood when doing so is necessary and enables me to prevent that person irom starving. Suppose that buying iood is a necessary enabler ior giving the person iood. and getting in my car is a necessary enabler ior buying iood. Moral substitutability warrants the conclusion that I have a moral reason to get in my car. And this act oi getting in my car does have the property oi being a necessary enabler ior preventing starvation. Thus. the necessary enabler has the same property that provided the moral reason to give the iood in the ilrst place. This explains why substitutability holds ior moral prevention reasons. The other kind oi moral reason covers necessary enablers ior promoting good. in my example above. ii a surprise party is a necessary enabler ior making Susan happy. and letting people know about the party is a necessary enabler ior having the party. then letting people know is a necessary enabler ior making Susan happy. The very iact that provides a moral reason to have the party also provides a moral reason to let people know about it. Thus. NEC can explain why moral substitutability holds ior every kind oi moral reason that it includes. Similar explanations work ior moral reasons not to do certain acts. and this explanatory power is a reason to favor NBC.” Oi course. this should come as no surprise. N BC was intentionally structured so that it would explain moral substitutability. But this does not detract from its explanatory iorce. The point is that moral substitutability remains a mystery unless we restrict our substantive theory to moral reasons that obey moral substitutability by their very nature. The crucial advantage of NBC lies in its unity. Other theories claim that my reason to do what I promised is just that this iuliills my promise or that promise keeping is intrinsically good. However. I did not promise to start the mower. and starting the mower is not intrinsically good. Thus. my reason to start the mower derives from a diiierent property than my reason to keep my promise. In contrast. N EC makes my reasons to keep my promise. to mow the lawn. and to start the mower derive from the very same property: being a necessary enabler of preventing harm or promoting good. This makes NEC's explanation more coherent and better.

#### Thus, the standard is maximizing foreseen expected pleasure

### <Insert DA, PIC>

## PICs

### Term Paper PIC

#### CP Text--- Resolved: Public colleges and universities in the united states ought not restrict any speech except for term papers produced by professionals who sell them to students who turn them in as original work for academic credit

#### Term papers prepared by professionals and sold to students, even though they are cut and dry examples of plagiarism, are constitutionally protected

Duke clarifies competition , Duke Law Journal: Term Paper Companies and the Constitution, 1973 Duke Law Journal 1275-1317 (1974) Available at: <http://scholarship.law.duke.edu/dlj/vol22/iss6/3>

TERM PAPERS AS PROTECTED SPEECH UNDER THE FIRST AMENDMENT The **preparation and sale of term papers involves not only written communication but also "pure speech," an** exchange of ideas arguably **protectable under the first amendment** . 2 **The Supreme Court has indicated that this protection extends** to even the most marginal "exchanges of ideas." Justice Frankfurter conceded **in** his dissent to **Winters v. New York**17 that "[w]holly neutral futilities, of course, come under the protection of free speech as fully as do Keats' poems or Donne's sermons." **The majority in Winters stated, with more enthusiasm, that even though the magazines in question contained "nothing of any possible value,**" **they were "as much entitled to the protection of free speech as the best of literature**." ' **A term paper, arguably, is somewhat more than a "[w]holly neutral futilit[y]" and is clearly entitled to as much constitutional protection as magazines which contain "nothing of any possible value to society."**

#### Term papers devalue our education and turn innovation and competitiveness.

**Duke**--- Duke Law Journal: Term Paper Companies and the Constitution, 1973 Duke Law Journal 1275-1317 (1974) Available at: <http://scholarship.law.duke.edu/dlj/vol22/iss6/3>

**The rapidity with which state legislatures have enacted term paper statutes is only one indication of the magnitude of the problem created by the existence of term paper companies**. **Because the ready availability of term papers' 3 is a strong temptation to even the most dedicated student, some professors now feel that the likelihood of receiving purchased term papers from their students is high enough that term papers ought not be assigned in their courses.**' 4 Not only has the proliferation of term paper companies **undermine**d **the validity of a widely used educational tool**, **but also,** more importantly, **the** largescale **commercialization** of plagiarism **has focused attention on the legitimacy of the educational process itself.**

#### Regulation is necessary to produce individual and critical thinking- that checks back cheating

**Duke**--- Duke Law Journal: Term Paper Companies and the Constitution, 1973 Duke Law Journal 1275-1317 (1974) Available at: <http://scholarship.law.duke.edu/dlj/vol22/iss6/3>

Nonetheless, suggestions have been made that **the problems created by** **the appearance of term paper companies are not problems suited to or in need of either judicial or legislative resolution**, **but are instead problems peculiarly within the province of the academic community.** 58 Such an attitude seems to derive from the belief that colleges and universities function, in part at least, as expert administrative agencies of the state with both legislative and judicial powers.159 For example, **colleges and universities have been imparted the responsibility of deciding both when and how an academic degree has been obtained fraudulently**. As contrasted with a university and its expertise akin to that of an administrative agency, **a state court may be ill-equipped to determine whether an act of plagiarism has or has not occurred. A state court would lack both the accumulated knowledge of the possible forms which plagiarism or dishonesty might take and the accumulated experience in assessing the likelihood of plagiarism within a given academic community,1 0 and would perhaps lack as well the necessary skill in choosing among various available sanctions**.' 61 In line with the approach that **universities rather than legislatures or courts should solve the problems created by the term paper companies**, all aspects of the academic community have begun to respond to the problems that the unexpected emergence and rapid proliferation of these companies have created. **Student newspapers have understandably been in the forefront of the term paper discussion**. At least one such newspaper, which had earlier called for the enactment of term paper statutes and ordinances, has altered its position and now believes that **the problem of academic plagiarism is a problem that colleges and universities can and should handle internally**. 162 In addition to shifts in editorial stances, student editors of **college newspapers have** in some instances voluntarily **decided to** **cease** accepting **advertisements from term paper companies**.163

#### This turns Kant. Plagiarism misrepresents the will of the original author and the plagiarizer

**Sadler 11** [Brook J. Sadler, “Nothing New Left to Say: Plagiarism, Originality, and the Discipline of Philosophy,” Florida Philosophical Review Volume XII, Issue 1, Winter 2012]

Kant’s own view of the author may constitute a metaphysically perplexing extreme, insofar as it suggests that the text, qua speech of a rational agent, is an extension of his noumenal self. But the modern idea that writing emanates from, manifests, or represents the unique personality of an author is what underwrites, so to speak, the modern notion of plagiarism. We must believe in the notion of original writing, seemingly freed of influences, in order to think plagiarism a distinctive, identifiable violation, especially when financial effects are absent. And the violation points in two directions. It points toward the original author, whose very person is co-opted or misrepresented through the unacknowledged taking of her words, and it points toward the plagiarizer, who misrepresents her own person by writing in someone else’s voice, making a puppet of herself as she enacts an original author’s speech. Thus, the modern complaint against plagiarism is doubly invested in the idea that the text is an enactment of the person, and that as such, it must be original.

#### This outweighs and turns the case:

#### A. Turns aff’s education claims- Makes education self defeating because students don’t actually learn if they pay their way to school

#### B. Violates equal human worth – buying grades violates meritocracy which is unfair to students who honestly did their work

#### C. Outweighs - Cheating is an internal contradiction in conception – it deceives the educational institution that the work is a students,

### RP PIC

#### Constitutional law permits “revenge porn” as protected form of speech- multiple cases prove

**Koppelman 16** [Andrew Koppelman, 2016, "Revenge Pornography and First Amendment Exceptions," Emory University School of Law, <http://law.emory.edu/elj/content/volume-65/issue-3/articles/revenge-pornography-first-amendment-exceptions.html>] NB

In Reed v. Gilbert, the Court made preexisting doctrine more rigid by categorically declaring that “regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed.” 11 This implies a presumption of invalidity: “A law that is content based on its face is subject to strict scrutiny regardless of the government’s benign motive, content-neutral justification, or lack of ‘animus toward the ideas contained’ in the regulated speech.” 12 This works a revolution in free speech law, calling into question a huge range of government regulations, such as almost all of securities law. “The majority opinion in Reed effectively abolishes any distinction between content regulation and subject-matter regulation,” Judge Frank Easterbrook observes. “Any law distinguishing one kind of speech from another by reference to its meaning now requires a compelling justification.” 13 If a law is unconstitutional if its restrictions “depend entirely on the communicative content” 14 of what is regulated, then any restriction of revenge pornography is in deep trouble8. The First Amendment’s protection of free speech does not apply to “low value” categories of speech, such as threats and incitement. 15 These categories are exceptions to the otherwise strong protection of speech. This much is familiar doctrine. In United States v. Stevens, in which the Court invalidated a law criminalizing depictions of the illegal killing of animals, Chief Justice Roberts announced that there would henceforth be no new categories of unprotected speech: Every established exception to free speech protection, Chief Justice Roberts declared, is based upon “a previously recognized, long-established category of unprotected speech.” 17 Before speech can be regulated, the state must show a “long-settled tradition of subjecting that speech to regulation.” 18 There is no tradition of regulating dogfighting videos, so the Court invalidated a law that criminalized them. 19 All this is bad news for laws against revenge pornography, even ones as skillfully drawn as Citron’s. Like the statute in Stevens, a prohibition of revenge pornography is “presumptively invalid” because it “explicitly regulates expression based on content.” 20No established exception is likely to be helpful here. Geoffrey Stone observes that there is “no long-standing tradition of regulating the publication of non-newsworthy private information.” 21 The Court has never addressed the constitutionality of the tort of disclosure of private facts. Even if the tort is permissible—it has been around for a long time 22 —Citron’s statute is different because it specifies the content of the speech that is restricted. Moreover, the forbidden content is truthful information, a record of what did in fact occur. Exposure of that information often leads to unfair treatment of the person photographed. That is, after all, what the person who distributes the photograph is hoping to accomplish. But “the ‘fear that people would make bad decisions if given truthful information’ cannot justify content-based burdens on speech.” 23 It is even arguable that the proposed statutes are prior restraints on speech, which are very heavily disfavored, because they require the distributor to obtain the consent of the person who was photographed. John Humbach observes that “a law that grants private individuals the absolute discretion, utterly unconstrained by the democratic process, to totally block dissemination of disfavored speech creates a system of censorship that would seem to be even more questionable than one controlled by public officials.” 24 The deep problem is viewpoint discrimination. With the animal cruelty statute at issue in Stevens, the United States noted in its reply brief, Congress “was concerned about the harms these depictions would cause even if they had no viewers at all—the harm to living animals occurring in the creation of the depictions, as well as associated harms arising from these acts of violence.” 25 The harm of revenge pornography, on the other hand, occurs only when the material is made available for viewers. Even worse, it is a harm primarily because some people believe that the display of one’s naked body to a camera is shameful. Not everyone has that view. Another recent Court decision suggests that the state has no power to remedy harms caused by speech, if the harm consists in the communication of a viewpoint that the law deems repellent.

#### Revenge porn produces horrible impacts for individual rights

**Koppelman 16** [Andrew Koppelman, 2016, "Revenge Pornography and First Amendment Exceptions," Emory University School of Law, <http://law.emory.edu/elj/content/volume-65/issue-3/articles/revenge-pornography-first-amendment-exceptions.html>] NB

A recent illustration is the new phenomenon of “revenge pornography”—the online posting of sexually explicit photographs without the subject’s consent, usually by rejected ex-boyfriends. The photos are often accompanied by the victim’s name, address, phone number, Facebook page, and other personal information. They are sometimes shared with other websites, viewed by thousands of people, and become the first several pages of hits that a search engine produces for the victim’s name. The photos are emailed to the victim’s family, friends, employers, fellow students, or coworkers. They are seen on the Internet by prospective employers and customers. Victims have been subjected to harassment, stalking, and threats of sexual assault. Some have been fired from their jobs. Others have been forced to change schools. The pictures sometimes follow them to new jobs and schools. The pictures’ availability can make it difficult to find new employment. Most victims are female. 1

#### Text: The \_\_\_\_\_ should criminalize revenge porn, but allow all other types of free speech.

**Citron 14** [Citron, Danielle K. "Criminalizing Revenge Porn." Wake Forest Law Review No 2014-1, 9 May 2014. Web. <http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2368946>. Associate Professor of Law, University of Miami School of Law. NB 11/7/14]

A criminal law solution is essential to deter judgment-proof perpetrators. As attorney and revenge porn expert Erica Johnstone puts it, “Even if people aren’t afraid of being sued because they have nothing to lose, they are afraid of being convicted of a crime because that shows up on their record forever.”97 Nonconsensual pornography’s rise is surely related to the fact that malicious actors have little incentive to refrain from such behavior. While some critics believe that existing criminal law adequately addresses nonconsensual pornography, this Part highlights how existing criminal law fails to address most cases of revenge porn

#### This turns and outweighs the case:

#### A. revenge porn is intentional domination of another- it subjects them to the means and control of society and is willed by the person—that’s why it’s called revenge

#### B. it creates a space of harm where it normalizes intentional rights violations, history proves

#### C. At worst- it’s a weighing argument for framework- if their framework can’t legitimize sexual harassment as bad, then it shouldn’t be used in the debate space because that excludes people and makes it dangerous for them to participate in

## Case

### OV 1- General

#### 1. Evaluate this through a paradigm of epistemic modesty- the strength of link towards which each debater has won their contention and their framework should be determined, this means that you vote neg if we have 100% reason to our contention but the framework debate is heavily contested. This is a better model for debate because A. it forces more topic education because debaters have to argue the actual topic instead of going for preclusive framework arguments, B. it coopts their philed offense because both are valuable, C. it is more real world because people have to justify each part of their argument if their want their ideas to be considered as legitimate

#### 2. Colleges don’t have unified intentions

#### A. College actions are taken through the combination of multiple individual actions- so ther’s no overaching intent

#### B. Elections and succession of administrators mean that the composition of colleges is never stable, so they never have a unified intention. Even if a policy is passed with some intention, the intention of a new set of leaders is immediately different

#### C. College administrators have conflicting interests- which are contradictory, so even if we could measure individual intentions it would be nonsensical to combine them.

### OV 2- Kant Fails

#### 1. Tailoring objection- Universalizability works because when everyone does something it leads to a weird state, not true if only one person did it. Kant thinks stealing is bad, but if everyone is stealing, then nobody has property. If only one person stole, you can tailor your objection to be super specific so that there is no objection as you construct it to universal law.

#### 2. Agency is inescapable- Why can’t you stand outside of that, and put yourself outside of what you are bound to in general. You can engage in ideas of schmagency, you can take the idea of schmagency

#### 3. Everything is a contradiction- any action is a contradiction in which if you sit in a chair, and I put that on everybody’s maxim to sit in that chair, I would be destroyed. Every action when taken to it’s extreme, it can’t be universalizable

### OV 3- FW Colllapse

#### As a last overview—their framework collapses to Util

#### 1. Life is a prerequisite to every being able to determine ethics

#### 2. Death is a forced contradiction because it precludes our ability to will- that type of violence subordinates individuals which precludes capability to reason

#### 3. Human rationality is only as valuable as what it confers value on that’s instrumental reason, pleasure is the final end of all value

### AT: Unity of Action

#### 1. Intent might tell us what an action is, but that doesn’t imply intent is how we evaluate the goodness of an action. We can say crossing the street is an action because of a unifying intent, and that it is a bad action because of its consequences.

#### 2. Unifying action is irrelevant since actions still make conceptual sense when not unified. We can evaluate each smaller step in action just as coherently as the overarching action itself.

#### 3. Non-verifiable: Intentions are never verifiable since agents can just lie about what they intended to do. Prefer consequences as a moral evaluation

#### Accuracy

#### We wouldn’t describe actions based on intentions unless those intentions were ACHIEVED

#### Probability: People are INCENTIVIZED to lie about bad intentions, since by doing so they can avoid punishment for immoral actions

#### Estimated worth: If I miscalculate the effects of an action that might lead to my action being less effective but rarely will it have the completely opposite effect.

### AT: Reasons Are Authorative

#### 1. It begs the question. Velleman uses reason in his argument to justify the authority of reason – it already assumes the truth of the conclusion, that reasons have force so it cannot establish anything.

#### 2. This doesn’t say anything useful – it only says we should act for reasons since doing so answers why I should act, but that leaves open the question of what kinds of reasons are authoritative. It still needs to prove that reasons must be universal; for example, if I had a reason to promote good consequences then the answer to the “why should I act” question is that it will promote good consequences.

#### 3. Fallacy of Origin- Just because reasons are the source of value, why does that mean that they are of value themselves

#### 4. A practical deliberation of action isn’t necessary in order to act, we can still have immediate motivations to act

### AT: Consequences Aren’t Under Our Control

#### Consequentialism already accounts for this – on the contention level we use probability analysis to estimate which consequences will occur.

#### This isn’t morally relevant: While there may be some uncertainty in achieving good consequences, that doesn’t deny that those consequences are themselves morally good.

### AT: Velleman (Inescapable/Regress)

#### 1) We can have a reason to take an action, but not necessarily have a motivation to take the action i.e. I could see money on the floor of a bank and have a reason to give it back, but it won’t guide action if I’m not motivated to do it. Only pain and pleasure can give us that motivation, if I see that the bank manager is dying of cancer and needs that money, I would give it to him in identification of the pain.

#### 2) They beg the question. If I didn’t already value practical reason, the fact that my beliefs were unreasonable wouldn’t affect me.

#### 3) Empirically denied, people are inconsistent all the time which proves that reason isn’t intrinsically action guiding

### AT: Autonomy Implication

#### 1) Autonomy is not an end in of itself, rather a means to another end. I could pursue my own autonomy but that will only be a will to another end i.e. I’ve only pursued my autonomy because it’s allowed me to pursue another freedom.

#### 2) Infinite Regress- If autonomy is conferred upon one's lower-order desires by one's second-order desires, what confers autonomy on these desires? If they are endorsed by a yet higher-order desire, then a regress appears.

### Kant Recontextualization

#### If their framework is true, freedom requires universal independence

**Korsgaard 96** [Christine Korsgaard. “The Sources of Normativity.” Lecture 3. The Tanner Lectures on Human Values. 1996. Gender modified. http://tannerlectures.utah.edu/\_documents/a-to-z/k/korsgaard94.pdf]

Kant defines a free will as a rational causality that is effective without being determined by any alien cause. Anything outside of the will counts as an alien cause, including the desires and inclinations of the person. The free will must be entirely self determining. Yet, because the will is a causality, it must act according to some law or other. Kant says, “Since the concept of a causality entails that of laws . . . it follows that freedom is by no means lawless . . .” 2 Alternatively, we may say that since the will is practical reason, it cannot be conceived as acting and choosing for no reason. Since reasons are derived from principles, the free will must have a principle. But because the will is free, no law or principle can be imposed on it from outside. Kant concludes that the will must be autonomous: that is, it must have its own law or principle. And here again we arrive at the problem. For where is this law to come from? If it is imposed on the will from outside then the will is not free. So the will must adopt the law for itself. But until the will has a law or principle, there is nothing from which it can derive a reason. So how can it have any reason for adopting one law rather than another ? Well, here is Kant’s answer. The Categorical imperative tells us to act only on a maxim that we could will to be a law. And this, according to Kant, is the law of a free will. To see why, we need only compare the problem faced by the free will with the content of the Categorical imperative. The problem faced by the free will is this: the will must have a law, but because the will is free, it must be its own law. And nothing determines what that law must be. All that it has to be is a law. Now consider the content of the Categorical imperative. The Categorical imperative simply tells us to choose a law. Its only constraint on our choice is that it have the form of a law. And nothing determines what that law must be. All that it has to be is a law. Therefore the categorical imperative is the law of a free will. It does not impose any external constraint on the free will’s activities, but simply arises from the nature of the will. It describes what a free will must do in order to be what it is. It must choose a maxim it can regard as a law.3 Now I’m going to make a distinction that Kant doesn’t make. I am going to call the law of acting only on maxims you can will to be laws “the Categorical imperative.” And I am going to distinguish it from what I will call “the moral law.” The moral law, in the Kantian system, is the law of what Kant calls the Kingdom of Ends, the republic of all rational beings. The moral law tells us to act only on maxims that all rational beings could agree to act on together in a workable cooperative system. Now the Kantian argument that I have just described establishes that the categorical imperative is the law of a free will. But it does not establish that the moral law is the law of a free will. Any law is universal, but the argument doesn’t settle the question of the domain over which the law of the free will must range. And there are various possibilities here. If the law is the law of acting on the desire of the moment, then the agent will treat each desire as it arises as a reason, and her conduct will be that of a wanton. 4 If the law ranges over the interests of an agent’s whole life, then the agent will be some sort of egoist. It is only if the law ranges over every rational being that the resulting law will be the moral law, the law of the Kingdom of Ends. Because of this, it has sometimes been claimed that the categorical imperative is an empty formalism. And this in turn has been conflated with another claim, that the moral law is an empty formalism. Now that second claim is false.5 But it is true that the argument that shows that we are bound by the categorical imperative does not show that we are bound by the moral law. For that we need another step. The agent must think of herself as a Citizen of the Kingdom of Ends. Those who think that the human mind is internally luminous and transparent to itself think that the term “self - consciousness” is appropriate because what we get in human consciousness is a direct encounter with the self. Those who think that the human mind has a reflective structure use the term too, but for a different rea - son. The reflective structure of the mind[‘s] is a source of “self-consciousness” because it forces us to have a conception æ that is you, and that chooses which desire to act on. This means that the principle or law by which you determine your actions is one that you regard as being expressive of yourself. To identify with such a principle or law is to be, in St. Paul’s famous phrase, a law to yourself. An agent might think of herself as a Citizen in the Kingdom of Ends. Or she might think of herself as a member of a family or an ethnic group or a nation. She might think of herself as the steward of her own interests, and then she will be an egoist. Or she might think of herself as the slave of her passions, and then she will be a wanton. And how she thinks of herself will determine whether it is the law of the Kingdom of Ends, or the law of some smaller group, or the law of the egoist, or the law of the wanton that is the law that she is to herself. The conception of one’s identity in question here is not a theo - retical one, a view about what as a matter of inescapable scientific fact you are. It is better understood as a description under which you value yourself, a description under which you find your life to be worth living and your actions to be worth undertaking. So I will call this a conception of your practical identity. Practical identity is a complex matter and for the average person there will be a jumble of such conceptions. You are a human being, a woman or a man, an adherent of a certain religion, a member of an ethnic group, someone’s friend, and so on. And all of these identities give rise to reasons and obligations. Your reasons express your identity, your nature ; your obligations spring from what that iden - tity forbids. Our ordinary ways of talking about obligation reflect this con - nection to identity. A century ago a European could admonish another to civilized behavior by telling him to act like a Christian. It is still true in many quarters that courage is urged on males by the injunction “Be a man!” Duties more obviously connected with social roles are of course enforced in this way. “A psychiatrist doesn’t violate the confidence of her patients.” No “ought” is needed here because the normativity is built right into the role. But it isn’t only in the case of social roles that the idea of obliga - tion invokes the conception of practical identity. Consider the astonishing but familiar “I couldn’t live with myself if I did that.” Clearly there are two selves here, me and the one I must live with and so must not fail. Or consider the protest against obligation ignored : “Just who do you think you are ?” The connection is also present in the concept of integrity. Etymologically, integrity is oneness, integration is what makes something one. To be a thing, one thing, a unity, an entity; to be anything at all: in the metaphysical sense, that is what it means to have integrity. But we use the term for someone who lives up to his own standards. And that is because we think that living up to them is what makes him one, and so what makes him a person at all. It is the conceptions of ourselves that are most important to us that give[s] rise to unconditional obligations. For to violate them is to lose your integrity and so your identity, and no longer to be who you are. That is, it is no longer to be able to think of yourself under the description under which you value yourself and find your life worth living and your actions worth undertaking. That is to be for all practical purposes dead or worse than dead. When an action cannot be performed without loss of some fundamental part of one’s identity, and an agent would rather be dead, then the obligation not to do it is unconditional and complete. If reasons arise from reflective endorsement, then obligation arises from re - flective rejection.

#### Outweighs:

#### A. Omissions don’t matter because the agent didn’t cause the event- willing contradictory ends result in failure to act

#### B. Reject absolute freedom because we are rational agents who live in a spatiotepomra universe and the possibility of universal harm is bad

#### C. No protection on freedom is assured- only the omnilateral will has everyone’s consent and can protect a total state of freedom

### Turn- Hate Speech

#### Hate speech is constitutionally protected

**Moore 16** [Social Studies Research and Practice www.socstrp.org Volume 11 Number 1 112 Spring 2016 You Cannot Say That in American Schools: Attacks on the First Amendment James R. Moore Cleveland State University]

**The first amendment**, a crucial component of American constitutional law, **is under attack from** various **groups** **advocating for censorship in universities** and public schools. The censors assert that restrictive speech codes preventing anyone from engaging in any expression deemed hateful, offensive, defamatory, insulting, or critical of sacred religious or political beliefs and values are necessary in a multicultural society. These speech codes restrict critical comments about race, religion, gender, sexual orientation, physical characteristics, and other traits in the name of tolerance, sensitivity, and respect. Many **hate speech codes are a violation of the first amendment** **and have been struck down** **by** federal and state **courts**. **They persist** in jurisdictions where they have been ruled unconstitutional; **most** universities and **public schools have speech** **codes**. This assault on the first amendment might be a concern to all citizens, especially university professors and social studies educators responsible for teaching students about the democratic ideals enshrined in our constitution. Teachers should resist unconstitutional speech codes and teach their students that the purpose of the first amendment is to protect radical, offensive, critical, and controversial speech. The first amendment in the Bill of Rights, the foundation of individual freedom in the United States, protecting the freedoms of religion, speech, press, assembly, and petition. These basic freedoms, derived from Enlightenment philosophy and codified in the world’s oldest written constitution, have been an essential characteristic of American democracy and law since 1791. This is continuity considering “between 1971 and 1990, 110 of the world’s 162 national constitutions were either written or extensively rewritten” (Haynes, Chaltain, Ferguson, Hudson, & Thomas, 2003, p. 9). The first amendment has been the conduit employed by U.S. citizens to create an increasingly free and just society based on the constitutional ideals of equality before the law, popular sovereignty, limited government, checks and balances, federalism, and individual liberties (Center for Civic Education, 2009). Advocates for the abolition of slavery and the expansion of civil rights were able, after long struggles, to achieve their goals of expanding freedom and social justice by using their natural rights to free expression and religious liberty (Dye, 2011). Since no constitutional liberty or right is absolute, American institutions continuously debate the definitions, limitations, and exceptions to these fundamental rights based on social, political, and technological changes. This task has been exacerbated by increasing cultural diversity and technological changes (the Internet and social media) that expand communication. In addition, efforts by some people to censor language in the name of tolerance and respect for diversity have increased in recent years (Foundation for Individual Rights in Education, 2013, p.4). The first amendment is the world’s oldest written safeguard for freedom of expression—this includes allowing blasphemy and expression that may be radical, offensive, controversial, ignorant, and militantly bigoted—and is the cornerstone of participatory democracy (Haynes et al., 2003). The first amendment is under constant attack from some religious organizations, political action groups, ethnically-based activist groups, and, most alarmingly, from American public universities that severely restrict freedom of expression and public debate (Foundation for Individual Rights in Education, 2013; Haynes, 2013; Hudson, 2011). The Foundation for Individual Rights in Education (2013) found “**62% of universities** (254 out of 409 universities in the survey) **maintain** severely **restrictive** **red-light speech codes** – **policies that** clearly and **substantially prohibit protected speech**” (p. 4). Many Americans do not understand, or do not accept, that the first amendment protects unpopular, offensive, controversial, and radical speech; this includes making hateful statements about race, gender, religion, and any other topic the speaker wishes to address (Haynes et al., 2003; Marshall & Shea, 2011; Pew Forum on Religion and Public Life, 2010). Many hate **speech codes**, thus, often are defined “as hostile or prejudicial attitudes expressed toward another person’s or group’s characteristics, notably sex, race, ethnicity, religion, or sexual orientation” (Dye 2011, p. 508). The hate speech instituted in American universities and Kindergarten-12 schools **are** often, albeit well-intended, **violations of the First Amendment** (Foundation for Individual Rights in Education; Haynes, 2013; *Saxe V. State College Area School District*, 2001).

#### Hate speech requires regulation and isn’t universalizable- that extends inclusion of exclusion which is contradictory

**Varden 10**: ~Helga Varden, Associate Professor of Philosophy and Associate Professor of Gender and Women's Studies @ U of Illinois, 5-22-2010, Academia.edu, <https://www.academia.edu/2006079/A_Kantian_Conception_of_Free_Speech~~>. NB

On the Kantian view I have been developing, hate speech and speech amounting to harassment are not outlawed because they track private wrongdoing as such, but rather because they track the state’s historical and current16 inability to provide some group(s) of citizens with rightful conditions of interaction. This type of public law tries to remedy the fact that some citizens have been and still are ‘more equal than others’. Hence, if the state finds that it is still unable successfully to provide conditions under which protection and empowerment of its historically oppressed, and thus vulnerable, are secured, then it is within its rightful powers to legally regu- late speech and harassment to improve its ability to do so. By putting its weight behind historically oppressed and vulnerable citizens, the state seeks to overcome the problems caused by its lack of recognition in the past and its current failure to provide conditions in which its citizens interact with respect for one as free and equal. Therefore, whether or not any instance of speech actually achieves insult is inconsequential, for that is not the justification for the state’s right to outlaw it. Rather, laws regulating speech and harassment track the state’s systemic inability to provide rightful interaction for all of its citizens. Note that this argument does not, nor must it, determine which particular usages of hate speech and speech amounting to harassment should be banned. It only explains why certain kinds and circumstances of speech and harassment can and should be outlawed and why public law, rather than private law, is the proper means for doing so. Determining which types and how it should be banned is matter for public debate and reflection followed by public regulation on behalf of all citizens.

### Turn- Sedition

#### It amounts to ending the omnilateral will- which makes freedom impossible

**Varden 10**: ~Helga Varden, Associate Professor of Philosophy and Associate Professor of Gender and Women's Studies @ U of Illinois, 5-22-2010, Academia.edu, <https://www.academia.edu/2006079/A_Kantian_Conception_of_Free_Speech~~>. RW

To understand Kant’s condemnation of seditious speech, remember that Kant, as mentioned above, takes himself to have shown that justice is impossible in the state of nature or that there is no natural executive right. Since Kant considers himself to have successfully refuted any defense of the natural executive right, he takes himself also to have shown that no one has the right to stay in the state of nature. This, in turn, explains why Kant can and does consider seditious speech a public crime. The intention behind seditious speech is not merely to criticize the government or to discuss theories of government critically, say. In order to qualify as seditious, the speaker’s intention must be to encourage and support efforts to subvert the government or to instigate its violent overthrow, namely revolution. To have such a right would be to have the right to destroy the state. Since the state is the means through which right is possible, such a right would involve having the right to annihilate right (6: 320). That is, since right is impossible in the state of nature, to have a right to subversion would be to have the right to replace right with might. Since the state is the only means through which right can replace might, the state outlaws it. And since it is a crime that “endanger[s] the commonwealth” rather than citizens qua private citizens, it is a public crime.

#### Seditious speech is constitutionally protected.

**Justia no date**: ~Justia, "Seditious Speech and Seditious Libel", <http://law.justia.com/constitution/us/amendment-01/41-seditious-speech.html~~> . RW

Seditious Speech and Seditious Libel.—Opposition to government through speech alone has been subject to punishment throughout much of history under laws proscribing “seditious” utterances. In this country, the Sedition Act of 1798 made criminal, inter alia, malicious writings which defamed, brought into contempt or disrepute, or excited the hatred of the people against the Government, the President, or the Congress, or which stirred people to sedition.966 In New York Times Co. v. Sullivan,967 the Court surveyed the controversy surrounding the enactment and enforcement of the Sedition Act and concluded that debate “first crystallized a national awareness of the central meaning of the First Amendment.... Although the Sedition Act was never tested in this Court, the attack upon its validity has carried the day in the court of history .... [That history] reflect[s] a broad consensus that the Act, because of the restraint it imposed upon criticism of government and public officials, was inconsistent with the First Amendment.” The “central meaning” discerned by the Court, quoting Madison’s comment that in a republican government “the censorial power is in the people over the Government, and not in the Government over the people,” is that “[t]he right of free public discussion of the stewardship of public officials was thus, in Madison’s view, a fundamental principle of the American form of government.”

### Turn- Extra

#### 3. Restrictions constitute free speech- otherwise you can't understand speech because there's no bounds to set it's meanings.

#### 4. Free speech violates the contract of the university- if you don't agree with the priniples you can leave campus and get educated elsewhere. Breaking contracts isn't universalizable because that entails breaking promises which is a contradiction in will

#### 5. Free speech violates the contract of the university- if you don't agree with the priniples you can leave campus and get educated elsewhere. Breaking contracts isn't universalizable because that entails breaking promises which is a contradiction in will

#### 6. Campaign expenditures allow rich students to give their opinions a higher weight- that's not universalizable because that destroys the premise of equal standing necessary for practical deliberation

### AT: Prereq To Debate

#### 1. Censorship is inevitable in debate- if you are to use hateful language, racist language, or anything harmful you’d be immediately kicked out by most judges. Also time limits, means that it’s still possible to speak with debate even with some restrictions

#### 2. Prefiat and postfiat distinction- applying postfiat rules on college campuses to high school debate forums right now doesn't make sense because we purely discuss hypotheticals- it’s also not a question of universalizability because that would be self defeating because it would hurt our capability to criticize the framework outside of that.

#### 3. No link- the NC wills restrictions on specific types of content of speech- that isn’t every type of speech. They say there is no way to morally differentiate them- that can be done based on the intent or the content of what the speaker is saying

### AT: Censorship Of Everything

#### 1. No link- the NC wills restrictions on specific types of content of speech- that isn’t every type of speech. They say there is no way to morally differentiate them- that can be done based on the intent or the content of what the speaker is saying

2.

### AT: Libertarianism

#### 1. Even libertarians conceded that some exceptions are necessary—hate speech results in war and genocide and causes intrinsic violence

**Arthur 11** (Joyce, Founder and Executive Director of the Abortion Rights Coalition of Canada, a national political pro-choice group, “The Limits of Free Speech,” Sep 21, 2011, <https://rewire.news/article/2011/09/21/limits-free-speech-5/> //[LADI](http://www.theladi.org/evidence))

Hate speech should not be tolerated in the name of free speech. It has real and devastating effects on peoples' lives and risks their health and safety. It's harmful and divisive for communities and hampers social progress in fighting discrimination. Left unchecked, hate speech can lead to war and genocide. Although the right to free speech is a fundamental value, it should not be allowed to outweigh the basic human rights of other people, especially their right to life. The popular catchphrase of free speech defenders is a quote attributed to Voltaire: “I disapprove of what you say, but I will defend to the death your right to say it.” Civil libertarians often defend and support the notion that the right to freely express offensive opinions is a bedrock human right that should not be abridged except under very narrow circumstances—typically for hate speech that directly incites violence against a person or group of persons. However, I support broader prosecution of hate speech—defined here as speech that disparages a person or class of persons based on an immutable characteristic (colour, race, origin, gender, sexual orientation, disability, and age), or their occupation, family or marital status, and religion or lack of religion. Proscribing hate speech more broadly would, I believe, foster a more inclusive, tolerant, and safer society. Many western countries already do criminalize hate speech in a more encompassing way, although enforcement is often weak and spotty. A typical example is Canada, where it is illegal to “expose a person or persons to hatred or contempt…on the basis of a prohibited ground of discrimination” (Canadian Human Rights Act) and to “wilfully promote hatred against any identifiable group” (Criminal Code of Canada). The United States, however, stands almost alone in its veneration of free speech at almost any cost. The U.S. Supreme Court insists that the First Amendment protects hate speech unless it constitutes a “ true threat” or will incite imminent lawless action. But societies should take action against hate speech without requiring that a few specific words by themselves must directly and immediately incite violence, or be likely to. That sets a very high bar and is difficult to prove. It also allows purveyors of hate to evade responsibility simply by not making explicit calls for violence. Further, our new digital world raises the stakes—the Internet has spawned a proliferation of hate speech along with useful information such as bomb-making instructions or the home addresses of abortion providers. This has enabled others to commit violence long after the words were first published. Violent acts of hate are generally preceded by hate speech that is expressed publicly and repeatedly for years, including by public figures, journalists, leading activists, and even the state. Some examples include Anders Behring Breivik’s terrorist acts in Norway (June 2011), the assassination of Kansas abortion provider Dr. George Tiller (May 2009) and other abortion providers in the 1990’s, the Rwandan genocide against the Tutsis (1994), the ethnic cleansing of Bosnian Muslims in Bosnia-Herzegovina (1992-1995), and the Nazi Holocaust. Courts of law should be able to look at broader patterns of hate speech in the culture to determine whether a hateful atmosphere inspired or contributed to violence, or would likely lead to future violence. When hate speech is relatively widespread and acceptable (such as against Muslims or abortion providers), it’s not difficult to see the main precursor to violence—an escalation of negative behaviour or rhetoric against the person or group. Dr. George Tiller endured a previous assassination attempt and a decades-long campaign of persecution waged by the anti-abortion movement, which worsened over time, especially in the last year or two of the doctor’s life. Anders Behring Breivik had actively opposed multiculturalism for years and had immersed himself in Christian Right propaganda about the supposed threat of Muslim immigration to Europe, a view popularized only in recent years by a growing army of anti-Muslim bloggers and right-wing journalists. As these examples illustrate, we can often pinpoint the main purveyors of hate speech that lead to violent crimes. In the Norway shootings, the killer Breivik relied heavily on writings from Peder Jensen (“Fjordman”), Pamela Geller, Robert Spencer, Mark Steyn, Jihad Watch, Islam Watch, Front Page Magazine, and others. Such individuals and groups should be charged with incitement to hatred and violence. Similar culpability for the assassination of Dr. George Tiller should rest on the shoulders of the extremist anti-abortion group Operation Rescue and Fox News commentator Bill O’Reilly. In general, anyone spewing hate to an audience, especially on a repeated basis, could be held criminally responsible. This would include politicians, journalists, organizational leaders and speakers, celebrities, bloggers and hosts of online forums, and radical groups that target certain categories of people. We also need to hold people in accountable positions to a higher standard, such as government employees and contractors, ordained religious leaders, CEOs, and the like. Criteria by which to assign culpability could include a speaker’s past record of prior hate speech against a particular person or group, how widely and frequently the views were disseminated, and the specific content and framing of their views. In cases where violence has already occurred, judges could determine how likely it was that the violent perpetrators had been exposed to someone’s specific hate speech, and hand down harsher sentences accordingly. The Harms of Hate Speech The apparent assumption of free speech defenders is that offensive speech is essentially harmless—that is, just words with no demonstrable link to consequences. But questioning whether speech can really incite someone to bad behaviour seems irresponsibly obtuse. Obviously, words have consequences and frequently inspire actions. A primary purpose of language is to communicate with others in order to influence them. If that weren’t so, there would be no multi-billion dollar advertising industry, no campaigns for political office, no motivational speakers or books, no citizen-led petitions, no public service announcements, and no church sermons, along with a myriad of other proven examples where speech leads others to act. The majority of hate speech is targeted towards gays, women, ethnic groups, and religious minorities. It’s no coincidence that straight white men are generally the most ardent defenders of near-absolute free speech, because it’s very easy to defend hate speech when it doesn’t hurt you personally. But hate speech is destructive to the community at large because it is divisive and promotes intolerance and discrimination. It sets the stage for violence by those who take the speaker’s message to heart, because it creates an atmosphere of perceived acceptance and impunity for their actions. Left unchecked, it can lead to war and genocide, especially when the state engages in hate speech, such as in Nazi Germany. Hate speech also has serious effects on its targets. Enduring hatred over many years or a lifetime will take a toll on most people. It can limit their opportunities, push them into poverty, isolate them socially, lead to depression or dysfunction, increase the risk of conflict with authority or police, and endanger their physical health or safety. In 1990, the Canadian Supreme Court stated that hate speech can cause “loss of self-esteem, feelings of anger and outrage and strong pressure to renounce cultural differences that mark them as distinct.” The court agreed that “hate propaganda can operate to convince listeners…that members of certain racial or religious groups are inferior,” which can increase “acts of discrimination, including the denial of equal opportunity in the provision of goods, services and facilities, and even incidents of violence.” In democratic societies that stand for equality and freedom—often with taxpayer-funded programs that promote those values by assisting vulnerable groups—it makes no sense to tolerate hate speech that actively works to oppose those values. Further, hate speech violates the spirit of human rights codes and laws, diminishing their purpose and effect. A society that allows hate speech is a society that tolerates prejudice at every level—politically, economically, and socially—and pays the consequences through increased discrimination and violence.

#### 2. The libertarian argues that every agent has a right to negative liberties- but that requires that every agent has a right to not be interfered with in terms of their actions- if we win our hate speech turn, that proves that it is a violation of negative liberties

#### 3. This isn’t universalizable- agents would have to will that there is a right to free speech in all instances while also willing interference against others- that violates their and our framework at the top level because universal law is the ultimate law

#### 4. They don’t create a state of equal freedom because they can’t account for conflicts between the right through acquisence, right through transfer, and rectification of injustices. That also means their ethic can never guide action or errs on the side of creating more violations of equal freedom

### AT: FS Includes People In Omnilateral Will

#### 1. No offense- their offense flows from the consequences of passing a free speech policy option, but they haven’t proven why free speech in of itself is intrinsically free

#### 2. Restrictions are necessary for actual valuable free speech- we form limitations in our will anyways

**Fish 94** [Stanley Fish. “There’s No Such Thing As Free Speech, And It’s a Good Thing, Too.” Oxford University Press. 1994. <https://www.english.upenn.edu/~cavitch/pdf-library/Fish_FreeSpeech.pdf>]

Indeed, “limitations” is the wrong word because it suggests that expression, as an activity and a value, has a pure form that is always in danger of being compromised by the urgings of special interest communities; but independently of a community context informed by interest (that is, purpose), expression would be at once inconceivable and unintelligible. Rather than being a value that is threatened by limitations and constraints, expression, in any form worth worrying about, is a product of limitations and constraints, of the already-in-place presuppositions that give assertions their very particular point. Indeed, the very act of thinking of something to say (whether or not it is subsequently regulated) is already constrained—rendered impure, and because impure, communicable—by the background context within which the thought takes its shape. (The analysis holds too for “freedom,” which in Schmidt’s vision is an entirely empty concept referring to an urge without direction. But like expression, freedom is a coherent notion only in relation to a goal or good that limits and, by limiting, shapes its exercise.)

#### 3. Low strength of link- there will always be certain limitations even in a libertarian state- such as taxes which means that the aff never makes individuals completely free 4. Misunderstands the omnilateral will – its not habermasian and inclusion based- it’s a third party that enforces restrictions on the will to ensure that they are universalizable, it only takes one powerful person doing a universality test to gain implicit consent from every other agent

#### 5. No spillover- University discourse doesn’t affect policy change outside the campus 6. Protesting outside the campus resolves – extra campus meetings solve 7. Education ensures students are prepared to think logically in the real world ensuring practical deliberation

#### 8. Inclusivity- the principle of hate speech intends to erase other people from the discussion

**Horne 16**: Solveigh Horne, Minister of children and equality in Norway. “hate speech—a threat to freedom of speech.” March 8, 2016. Huffington Post. <http://www.huffingtonpost.com/solveig-horne/hate-speech--a-threat-to_b_9406596.html>. RW

Hate speech in the public sphere takes place online and offline, and affects young girls and boys, women and men. We also see hate speech attacking vulnerable groups like people with disabilities, LGBT-persons and other minority groups. Social media and the Internet have opened up for many new arenas for exchanging opinions. Freedom of speech is an absolute value in any democracy, both for the public and for the media. At the same time, opinions and debates challenge us as hate speech are spread widely and frequently on new platforms for publishing. Hate speech may cause fear and can be the reason why people withdraw from the public debate. The result being that important voices that should be heard in the public debate are silenced. We all benefit if we foster an environment where everybody is able to express their opinions without experiencing hate speech. In this matter we all have a responsibility. I am especially concerned about women and girls being silenced. Attempts to silence women in the public debate through hate speech, are an attack on women’s human rights. No one should be silenced or subjected to threats when expressing themselves in public. Women are under-represented in the media. In order to get a balanced public debate it is important that many voices are heard. We must encourage women and girls to be equal participants with men. Hate speech prevents women from making their voices heard. I also call upon the media to take responsibility in this matter. In some cases the media may provide a platform for hate speech. At the same time, I would like to stress that a liberal democracy like Norway strongly supports freedom of speech as a fundamental right.

### AT: HS Not Intrinsic- Just Words/Intent

#### Hate speech is intrinsic and intentional

#### 1. When an agent decides to will a certain way- they will from their ends to their means, that means that when they speak hatefully towards a certain group- it is a part of their intention and is necessarily part of the action because that is how they have completely willed their action. When they will this principle- they also will the ends which is contradictory with their capability to will.

#### 2. Our Varden evidence indicates that hate speech is institutional and has historically occurred- that verifies that it isn’t due to accidental speaking but rather is intentional because it has historically occurred consistently

#### 3. This doesn’t create reasoned conclusion but just incentivizes peole to act off emotional responses- that’s the NC

#### 4. When someone uses hateful words- they have set the framework for other individuals to make their choices because they have shifted the frame of mind that they operate within. They become partly responsible for what happens to others.

#### 5. When you communicate a threat- there is a serious opportunity and capability to make a strike with your intention- inc cases like these, the words contained in the threat no longer function as speech but take on the role of communicating an intended future wrongdoing against indivudals.

#### 6. Speech must be distinguished from uses of words that debiliate others in virtue of their causal effect on their bodies. Speech is actually a set of sound waves which do exist in space and time and have coercive power in relation to our bodies- anything that hinders another's physical abilityt o set their respective means is coercive.

#### 7. When individuals make an intention- they know what is possible that can bring about that action to hurt others because it is part of their willing which means that they have intended something bad

#### 8. Takes out their offense- people that they say are important for listening would never will a certain end

# 2NC